

State of Utah

Title and Escrow Commission Meeting

Meeting Information

Date **August 10, 2005** Time **9:30 to 4:30 PM** Place **Insurance Dept., Rm 3112**

Members

(Attendees = x)

Commission Members

x Chairman, Joyce W. Clark, *Washington* x Darwin L. Johnson, *Wasatch*
David M. Lattin, *Salt Lake* x Glen W. Roberts, *Utah* x R. Curt Webb, *Cache*

Department Staff

x John E. "Mickey" Braun, Jr. x Perri Babilis Brad Tibbitts x Gerri Jones
Ass't Commissioner *AG Legal Counsel* *Director, P&C* *MC Examiner*
x Sheila Curtis Gale Lemmon x Jilene Whitby
MC Examiner *AG Prosecutor* *PIO/Recorder*

MINUTES

Welcome and Introductions – Chairman, Joyce Clark
Joyce welcomed everyone at 9:42a.m.

Adoption of Minutes of Previous Meeting

Darwin made a motion to accept the minutes without change. Glen seconded the motion.
The vote was unanimous in favor of the motion.

Old Business

- **Review & Concur with License Report / Mickey Braun**
Mickey gave the Members a list of individual title and agency licenses issued, renewed, late, reinstated and lapsed in July. Duplicate names are a result of individuals qualifying for various types of licenses, i.e., title search and escrow.
 - Glen asked if the lapse of Dear Creek Title's license was final? Mickey explained that a lapsed agency license can be reinstated until the next renewal date.
 - Glen asked how fines were assessed? Mickey said that the code allows up to a certain amount for each violation and the department has guidelines for aggravating and mitigating circumstances.
 - There is a 30-day late renewal period that an individual or agency has to pay their license renewal fee plus late fee. After that the licensee is notified that their license has lapsed and appointments have been cancelled. An individual must then re-apply to have his/her license reinstated. Curt made the motion to accept the report. Glen seconded the motion and the vote was unanimous in favor of the motion.
- **Review Complaint, Investigation & Enforcement Reports / Mickey Braun**
The department is unable to do these complaint and investigation reports electronically and they do not have time to pull the information manually for the meeting. In about six months the department's computer system will undergo a change that should make it possible to get this data electronically. Gerri reported that she and Sheila work mainly on

marketing and fraud issues. Some issues can be resolved on the spot. Their workload is prioritized from most egregious violations to least egregious violations.

- **Summation of Enforcement** / Mickey Braun

Mickey provided the members with a list of open enforcement actions Gale is working on. More information will be included on the chart at the next meeting. If a hearing is required for any of these actions the Commission will need to decide how much they want to be involved.

- **Contact Information on the Web** / Mickey Braun

Contact information about the Members has been put on the web. This does not include phone or fax numbers. It was decided that email addresses would be included. Glen noted that he had moved. His new business address is 727 N. 1550 E., Suite 150, Orem, Utah, 84097. Mickey asked Tom to update this on the database.

New Business

- **Title Prelicensing Education** / Tom Brasher

Joyce said that Dave Moore has the only title pre-licensing education course in Utah. Can the Utah Land Title Association provide pre-licensing courses? Tom noted that in 1996 pre-licensing requirements were eliminated from the Insurance Code. It is up to Utah Land Title to make this decision.

- Joyce asked if those teaching and taking the pre-licensing education classes could receive CE credit? Tom said that currently this is prohibited except in very rare circumstances. Perri said that if the Commission wanted to allow it they could create a new rule to do so. Curt suggested leaving the education issue alone since the Commission does not have the manpower to change it.
- Dave Moore sent an email to Tom that he forwarded to Joyce and Gerri. Copies were given to the Commission. Gerri explained that Dave has expressed concern about companies like Countrywide Lenders use mobile notaries to have closing documents signed then returned to them. If the title agent is holding the escrow funds and conducting the closing, any person who conducts the closing (escrow officer in the agency, mobile notary out of the agency) must have an insurance license with a subline of authority in escrow. These persons must also be designated on the agency license. Dave asked to be on the next agenda to discuss his issues. Joyce will notify him that he will be given ten minutes.

- **Examination Review Process** / Tom Brasher

Tom thanked the members for attending the recent Examination Review meeting. This is an annual process done in July to prepare for the annual revision and publication of the examination bulletin. A group reviews test questions for each line of insurance. They analyze each question and recommend changes they feel are necessary. Tom reviewed the history of the pre-licensing and licensing process. When the pre-licensing requirements were dropped, the licensing pass rate dropped. The pass rate for applicants taking the test for the first time applicants is around 60%.

- Curt asked what the department's responsibility is regarding the licensing exam? Tom said that the department selects a testing vendor through a bidding process. Each exam is a unique set of questions for that particular examinee. The questions are developed by the vendor and annually reviewed by the Department. Gerri said that last year the number of questions for the search and escrow exams were increased.
- Joyce asked if there is a limit to the time a person has to get a license? Tom said an individual has 90 days from the date they complete their exam. This is sometimes difficult for title licensees since most have two exams to take.

- Curt asked about the experience required to get an agency license. Gerri noted that the department tried to clarify this requirement in H.B.200 this year. The wording in 31A-23a-203 was struck out and amended in 31A-23a-204. Senator Mansell amended this bill by striking out the new language in 31A-23a-204 and leaving the struck-out language in 203. Senator Hatch told Curt this change could be made by rule. Mickey will see if it can. The Members decided to add this subject to September's agenda and asked Gerri to email the original corrections in H.B.200 to them.
- **Break 10:47a.m.**
Called to order at 10:55a.m.
- **Review Rulemaking Process / Mickey Braun**
Mickey briefly reviewed the rulemaking process and information previously emailed to the Members. He reviewed the process including: fiscal impact; comment period; hearings; the Legislative Rule Committee; etc. The Commission has its own rule number prefix, R592. Included in the packet given to Members is a list of title rules and bulletins. Those that are strictly title rules will be given a new number with the prefix R592. Rules, in which title is only a part, will need to be reviewed by the Commission to determine if the title portion should be extracted and made into a title rule. The department will notify the title industry of the change in rule numbering.
- **Title Assessment Calculation / Mickey Braun**
Mickey reviewed the handout regarding the title assessment, how it is calculated and what the law states. The calculation is based on information given to the department by title agencies as required by Rule R590-187, Assessment of Title Insurance Agencies and Title Insurers for Costs Related to Regulation of Title Insurance. The assessment is used for funding costs or expenses related to the administration, investigation and enforcement of Chapter 23a, Parts 4 and 5 related to the marketing of title insurance and audits of agencies. Mickey noted that the cost of doing examinations could be charged to the agency being examined.
- **R590-XXX Procedures for Filing Escrow, Settlement, and Closing Charges**
Joyce asked Gerri to lead the group discussion of the first draft of the proposed rule. The secretary was dismissed during this discussion. The discussion proposed several changes to the initial draft. Department staff will incorporate the proposed changes into a second draft which will be presented to the Commission at the next meeting.
- **Review NAIC Title Insurance Models (2)**
Glen made a motion that Senator Hatch be asked to sponsor the NAIC Title Insurers Model Act, #628. Glen seconded the motion. The vote was unanimous in favor of the motion. Glen suggested also giving Senator Hatch and Legislative Research NAIC Model Act #230, Title Insurance Agent Model Act. Legislative Research can compare these acts with the code to see if there would be duplication. The motion was modified by Curt to also include Model Act #230, Title Insurance Agent Model Act. Glen seconded the motion. The vote was unanimous in favor of the motion.

Other Business from Committee Members

The meeting on September 14 will be extended to 4:30p.m. Joyce will give the department additional suggestions for the agenda. The agenda will be sent out a week prior to the meeting. Next month the Commission will start work on the fiduciary rule. It should be emailed to the Members prior to the meeting.

Adjourned - 2:15p.m.

Next Meeting

9:30 a.m., Room 3112, State Office Building

July 13, 2005	January 11, 2006
August 10, 2005	February 8, 2006
September 14, 2005	March 8, 2006
October 12, 2005	April 12, 2006
November 9, 2005	May 10, 2006
December 14, 2005	June 14, 2006